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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking Regarding Revisions to the California Universal Telephone Service (LifeLine) Program.	Rulemaking 11-03-013 (Filed March 24, 2011)

COMMENTS OF TRACFONE WIRELESS, INC. (U-4231-C) TO ASSIGNED COMMISSIONER AND ADMINISTRATIVE LAW JUDGE'S RULING REQUESTING COMMENTS ON WORKSHOPS AND FEDERAL COMMUNICATIONS COMMISSION'S THIRD REPORT AND ORDER, ISSUING DATA REQUESTS

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OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking Regarding Revisions to the California Universal Telephone Service (LifeLine) Program.	Rulemaking 11-03-013 (Filed March 24, 2011)

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TracFone Wireless, Inc. ("TracFone") respectfully provides the following comments in response to the September 22, 2016, Assigned Commissioner and Administrative Law Judge's Ruling Requesting Comments on Workshops and Federal Communications Commission's Third Report and Order, Issuing Data Requests ("ACR").

In Section A of these comments, TracFone has set forth key principles or themes that should guide the Commission's decision. These policy themes are essential to understanding TracFone's individual responses and should be considered incorporated into each of TracFone's individual specific responses set forth in Sections C, D, and E below.

A. Policy Themes to Inform the Commission's Decision

TracFone believes the Commission will reach the result that will best serve California LifeLine consumers if its decision is consistent with four guiding principles:

1. **Necessity of ensuring combined federal and state subsidies.** The high level of benefits, including sophisticated devices, provided to California LifeLine program participants are only feasible when carriers are eligible to receive both the federal and state subsidies. Thus, the Commission should carefully align the state program with the federal program.

2. **Necessity of transfer freezes.** California adoption of the federal 12-month transfer freeze for broadband Lifeline service is indispensable to carriers' ability to provide devices capable of broadband Internet access and to recover the cost to carriers of providing high-quality devices and plans. The 60-day freeze is equally important for voice-only plans.

3. **Necessity of consistency.** Consistency between the federal and California programs is the best way to ensure cost recovery and the continued availability of both federal and state subsidies. By recovering costs and combining subsidies, consumers will continue to see improvements. Inconsistent rules, however, will confuse consumers, reduce participation rates, and increase administrative complexity and cost.

4. **Necessity of a single point of contact.** A single point of contact for enrollment and verification for both the California and federal programs will maximize efficiency and reliability.

Most important by far is the practical necessity of consistency between the California and federal programs, especially with respect to eligibility and port freezes. These policy themes are summarized below.

1. The Benefits Provided by California Wireless LifeLine Carriers Are Feasible Only When Carriers Receive Both the Federal and State Subsidies

As the Commission deliberates the issues raised in the ACR, it should understand the extent to which California LifeLine and federal Lifeline wireless programs are interdependent. Carriers cannot help low-income households bridge the digital divide without both the state and federal subsidies. Although California LifeLine is a voice service subsidy program, market forces dictate that California LifeLine wireless carriers compete on the basis of plans that include broadband data as well as unlimited voice and text. Competition has similarly forced a race to the top to provide increasingly high-quality devices capable of both voice telephony and mobile broadband internet at no cost to the consumer.

In short, the current design of the program incentivizes California LifeLine wireless providers to continuously improve their offerings and ensures that LifeLine participants have access to plans and devices reasonably comparable to those used by the majority of consumers.

However, the single greatest obstacle to providing telecommunications services to low-income households is cost. Unfortunately, wireless carriers cannot recover the cost of internet-capable devices—which are considerably more expensive than voice-only handsets—from service supported by only California LifeLine. Wireless carriers must combine the state and federal subsidies if they are to have a reasonable opportunity to recover the cost of advanced, internet-capable devices. Given the significance of this cost, the Commission should ensure that the policies it adopts guarantee that the greatest number of California LifeLine wireless participants will be eligible under both the state and federal programs.

2. Adoption of the Federal Transfer Freeze Policies Is Indispensable to the Improvement of Device and Plan Offerings

A 12-month transfer freeze on all LifeLine plans that include broadband data is absolutely essential if wireless carriers are to have a reasonable opportunity to recover the cost of advanced, internet-capable devices and if California LifeLine consumers are to receive continuously improved device and plan offerings. The Commission should be mindful that handsets and smart devices are possibly the *most significant motivation* for customers to transfer out to other carriers.

Wireless carriers compete, in part, based on the quality of their device offerings. However, the losses caused by serial provider switchers impose very real limits on the resources carriers may devote to improving their offerings. For example, wireless carriers need to recoup the upfront cost of allocating bandwidth for a customer's anticipated data usage. As a practical matter, carriers must be guaranteed a reasonable opportunity to recover their investments through the FCC limits on provider transfers. For voice-only plans, however, the 60-day transfer freeze is appropriate.

The efficacy of the transfer freeze should not be doubted. It ensures carriers have a meaningful opportunity to recoup the cost of their investments. The discount transfer freeze is therefore analogous to the patent system, which, despite its imperfections, is "extremely effective at stimulating the growth of a market for technology and promoting technological change."[1]

There are substantial benefits and few, if any, disadvantages to a California LifeLine discount transfer freeze policy that parallels the federal program. As carriers recover more of their costs and consequently improve their offerings, they will offer increasingly attractive devices and plans to tempt away customers. The discount transfer freeze thus results in a virtuous cycle in which the discount transfer freeze provides carriers with additional resources to improve their offerings and attract customers, which in turn fosters further innovation and competition. Customers will still have the ability to leave their current provider, subject to reasonable limitations, that will have negligible impact on bona fide subscribers and significantly reduce waste, fraud, and abuse.

3. Conforming the California Program to Federal Rules Will Prevent Consumer Confusion and Provide Consumers with Improved Offerings

The surest way for consumers to remain eligible for both the state and federal subsidies is to conform the California program to the changes in the FCC Order. This consistency is essential to providing consumers with the same telecommunications services enjoyed by most Californians.

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[1] Kenneth L. Sokoloff & B. Zorina Khan, Intellectual Property Institutions in the United States: Early Development and Comparative Perspective (July 17-19, 2000) (paper prepared for World Bank Summer Research Workshop on Market Institutions).

The Commission should also be mindful of the other ways in which wireless California LifeLine consumers could be impacted by the changes in the federal program. If California conforms its port freeze policies, eligibility criteria, and enrollment processes to the federal program, and if current customers are grandfathered, then the vast majority of wireless LifeLine customers should be unaffected. Of those customers who are affected, many likely will not experience any disruption because they will likely qualify for federal Lifeline under one of the five federal eligibility-determining programs. On the other hand, if the Commission adopts its own eligibility criteria and port freeze policies, then significantly more Californians may be impacted in ways TracFone cannot currently predict.

LifeLine rules are already arcane, and inconsistent state and federal rules will likely confuse consumers and increase administrative complexity and cost. As the custodian of a program that serves resource-poor communities, the Commission should avoid potential interruptions of service and be mindful of the possibility that LifeLine customers would find inconsistent state and federal policies very confusing. A LifeLine subscriber has no reason to know—and no reason to remember if educated—that an attempt to switch carriers might result in the loss of the federal subsidy and possibly require the shortfall to be paid out of the customer's own pocket.

4. A Single Point Enrollment and Verification Process Is Efficient and Reliable

Regardless of whether the verifying and enrolling entity is the California LifeLine Administrator or the National Verifier, the key to efficient enrollment and verification is the use of a *single point of contact*. Indeed, California has long known the value of a single point of contact because of its success with the California LifeLine Administrator.

The Commission should take great care to avoid policies that will result in federal Lifeline applications being processed by one entity, such as the National Verifier, while

California LifeLine applications are processed by another entity. To avoid confusion (and to ensure the availability of both the state and federal subsidies), California LifeLine should apply the same eligibility criteria as the federal program and perform only a single eligibility determination.

If the verifying and enrolling entity is the California LifeLine Administrator, then TracFone recommends that it update its front-end matching logic, which is the process by which the Administrator determines whether an applicant should ultimately be rejected despite initially appearing to be eligible.

B. TracFone Comments on California LifeLine Workshop

At this time, TracFone does not have any comments regarding the LifeLine Workshop but reserves the right to address it in its reply comments. However, given the imminent implementation date of the FCC's changes, TracFone encourages the Commission to place the highest priority on (i) the issues associated with conforming the state program to federal rules and (ii) the 12-month port freeze for plans that include broadband.

C. TracFone Comments on Policy Considerations as Listed in ACR Section 4.1

1. *How should the Commission define the characteristics of a low-income household in California? Should they be different or the same compared to the definitions used by the FCC and the methods the FCC adopted to establish income-based or program-based eligibility for federal Lifeline? Should they be different or the same compared to the other low-income assistance programs that the Commission administers? Describe the justification.*

Answer:

The Commission should define a low-income household by applying the same characteristics and methods used by the FCC. The Commission's definition of low-income household should not be the same as the definition employed by other Commission-administered programs except to the extent those programs adopt an approach consistent with the FCC.

State-federal consistency is essential to the efficient administration of California LifeLine wireless program. Adoption of a California-specific definition will produce participants who qualify for California LifeLine but not for federal support. Such an outcome is unlikely to benefit California LifeLine participants— wireless carriers are able to provide unlimited voice service and other attractive offers only because they receive both state and federal subsidies. Unless California substantially increases the funding available to the program (which would most likely result in higher costs passed onto other ratepayers) California LifeLine alone will not support unlimited voice and data wireless plans.

By adopting a policy of state-federal consistency, the Commission will ensure that carriers have adequate resources to compete and provide increasingly attractive LifeLine programs.

2. *Should California LifeLine maintain its own eligibility criteria that differ from the federal Lifeline program? If yes, should California conduct two sets of income-based or program-based qualifications, one for federal Lifeline and a separate process for California LifeLine? Describe the justifications.*

Answer:

No, California LifeLine should apply the same eligibility criteria as the federal program and perform only a single eligibility determination. See the Policy Themes and Question 1 above.

3. *What should happen with the consumers who previously qualified under the eligibility criteria that the federal Lifeline program just eliminated? When should their eligibility end for federal Lifeline discounts? Describe the justification.*

Answer:

California LifeLine participants that previously qualified for the federal program should be grandfathered until their next renewal period. At that point, participants who only qualify for California LifeLine should be required to demonstrate federal eligibility under the new eligibility standards.

4. *Should consumers who are eligible for California LifeLine, but not federal Lifeline under the FCC's Order, be allowed to pay for the equivalent federal support and receive the*

same service or package they receive now as California LifeLine and federal Lifeline participants? Legally, may the Program cover the cost of discounted telephone services for those consumers who are no longer eligible for federal Lifeline, but are eligible under the California standards, and if so, should the Program cover such costs? Describe the justifications.

Answer:

TracFone does not take a position on whether California LifeLine should make up the difference for wireless consumers no longer eligible for federal LifeLine. As explained in TracFone's policy themes, however, the Commission should ensure that all California LifeLine participants are eligible for federal subsidies by adopting federal eligibility requirements for California LifeLine. A system that permits California-only eligibility will increase costs and administrative complexity.

TracFone also does not take a position on whether consumers should be allowed to make up the difference, but notes that allowing low-income households to pay out of pocket raises difficult questions about equity and fairness. Some participants might end up paying the federal subsidy amount out of their own pocket because they are unaware that they qualify for one of the eligibility-determining federal programs.

5. *Should the California LifeLine Administrator continue to perform the enrollment process until the transition to the National Verifier? Describe the justification.*

Answer:

A single point of contact is critical to efficient enrollment and verification. A single entity should therefore perform enrollment and verification for both the federal and California programs. Using two verification entities would duplicate costs and increase complexity. If the entity is the National Verifier, it should not affect the California LifeLine subsidy.

6. *How should the National Verifier interact with the California LifeLine Administrator after the National Verifier is in place in California? Since the National Verifier is not yet in place, should decisions about this issue be deferred to a Phase III in the California LifeLine proceeding once the National Verifier process is known and operational in other states? Describe the justification.*

Answer:

If the single point of contact will be the National Verifier, then TracFone recommends that the Commission actively assist the Universal Service Administrative Company ("USAC") with the design of the National Verifier. California has almost a decade of experience with implementing the California LifeLine Administrator, which uniquely positions it to render meaningful advice to USAC and the FCC.

In particular, TracFone recommends that the Commission address three issues:

1. There should be an interface between the National Lifeline Accountability Database ("NLAD") and the National Verifier to facilitate the validation of whether an applicant is already receiving LifeLine services from another carrier.
2. The National Verifier must operate in real-time by implementing an application program interface ("API") that will allow for automated application verification without human input. Without an API, verification of applications from all 50 states will require an unsustainable volume of back office reviewers to manually validate the proof submitted by applicants. The API approach, once functional, will result in significant cost savings.
3. A subscriber's phone number cannot be used as an identifier. The National Verifier should generate a unique key per subscriber to avoid duplicate entries for a single subscriber. To avoid duplication, this key should include an ETC identification number or operating carrier number ("OCN"), a study area code ("SAC"), applicant first and last names, last four digits of the applicant's social security number, and the applicant's date of birth. NLAD was designed to use the subscriber's phone number as the primary key. As a result, all NLAD-served carriers now struggle with duplicate keys that have accumulated as subscribers change phone numbers, carriers fail to timely release mobile directory numbers, and other reasons.

7. *How will the California LifeLine Administrator's role change with the implementation of the National Verifier in California? Should the California LifeLine Administrator continue to exist once a National Verifier is in place? Since the National Verifier is not yet in place, should decisions about this issue be deferred to a Phase III in the California*

LifeLine proceeding once the National Verifier process is known and operational in other states? Describe the justifications.

<u>Answer</u>:

Please see responses to Questions 5 and 6 above.

8. *Currently, investor-owned utilities enroll California's low-income households into the California Alternate Rates for Energy program for their receipt of discounted electric and/or gas bills. For discounted phone bills, the Commission transferred the enrollment responsibilities from the service providers to an independent, third-party administrator. Should there be one entity enrolling California's households into these consumer assistance programs, e.g., California Alternate Rates for Energy, California LifeLine, Family Electric Rate Assistance Program, Energy Savings Assistance Program, and Deaf and Disabled Telecommunications Program, administered by the Commission? If so, describe how this enrolling entity might be created and administered, its legal foundation, and in what time-frame.*

<u>Answer</u>:

As explained in response to Questions 5 and 6, the need for a single entity responsible for enrollment and verification is important to a successful and efficient program. For this reason, TracFone does not support the proposal in this question, which has the potential to complicate matters unnecessarily.

9. *Should California LifeLine maintain or change the method for determining the start of the California LifeLine discounts? If it should be changed, describe how, and provide the justification.*

<u>Answer</u>:

Yes, the method should be changed. The California LifeLine discount should become available once the verifying entity has determined that an applicant is eligible for federal Lifeline services. The discount also should be available once the consumer is eligible for transfer (i.e., the discount transfer freeze ends). In the case of transfers of service, the renewal date should be one year after the transferred customer has activated their handset and been approved .

10. *Should the California LifeLine Administrator or the California LifeLine providers load the participants' information into the new National Verifier? What factors should the Commission consider in transferring participant information?*

Answer:

To the extent that the National Verifier becomes the verifying entity for services delivered in California, the California LifeLine Administrator should load participant information into the National Verifier to avoid duplication of records, as a significant number of LifeLine participants have received service from multiple carriers. Carriers should also have access to an eligibility database to enable them to avoid duplication prior to sending the applicant a device. The generation of a unique key for each participant, as described above in response to Question 6, would help avoid duplication.

TracFone is uncertain what the Commission means when it asks what factors its should "consider in transferring participant information." It therefore declines to offer comments at this time but reserves the right to do so in its reply comments.

11. *How will the federal Lifeline program's supported services impact the California LifeLine discounts?*

Answer:

TracFone cautions the Commission against adopting an approach that would result in a divergence of California and federal eligibility and subsidies. The California wireless subsidy cannot independently support unlimited voice or voice with data. Please see the Policy Themes and response to Question 1 above.

12. *Should the Commission redefine minimum communications needs for California's low-income households? If yes, describe the justification and redefined minimum needs.*

Answer:

"Minimum communications needs" presumably refers to the mandate contained in the Moore Universal Service Act that the Commission annually "[d]esignate a class of lifeline service necessary to meet minimum communications needs."[2] In D.14-01-036, the Commission determined that "wireless telephone plans that offer at least 501 minutes per month and conform to the California LifeLine wireless service elements . . . meet Californians' specific minimum

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[2] Pub. Util. Code § 873(a)(1).

communications needs."[3] The Commission thus relied on "minimum communications needs" to define minimum service standards, which consist of service elements upon which "the vast majority of telephone customers . . . expect and rely."[4]

A "substantial" majority of customers may be said to expect and rely on a service when at least 65% of customers subscribe to it.[5] Such services are "essential for participation in society."[6] Without express clarification from the Commission, it therefore seems that "minimum communications needs" may be fairly described as services to which at least 65% of customers subscribe and are essential for participation in society.

This approach closely parallels the FCC's analysis. When setting minimum service standards, the FCC is guided by the statutory principle that Lifeline must provide telecommunications services that are "essential to education, public health, or public safety" and received by a "substantial majority" of American consumers.[7] For present purposes, a "substantial majority" constitutes 70% of consumers.[8]

At this time, TracFone believes minimum communications needs should be left unmodified. California LifeLine wireless participants already have unlimited voice and text and will soon benefit from improved access to broadband internet under the minimum service standards of the FCC Order. In short, Californians will continue to receive improvements. Compliance with the FCC minimum service standards for broadband will be challenging, costly, and potentially infeasible. Given the difficulties imposed by changes to the federal program, it would be inappropriate to modify California's minimum communication needs until after the federal program has phased out support for voice.

[3] D.14-01-036 at 41.
[4] D.96-10-066 at 15
[5] *Id.*
[6] *Id.* at 19
[7] 47 U.S.C. § 254(c)(1)(A), (B); *see also Lifeline and Link Up Reform and Modernization, Telecommunications Carriers Eligible for Universal Service Support, Connect America Fund*, WC Docket Nos. 11-42, 09-197, 10-90, Third Report and Order, Further Report and Order, and Order on Reconsideration, FCC 16-38, ¶¶ 42, 62, 72-77 (rel. Apr. 27, 2016) ("FCC Order").
[8] The numeric threshold depends on the specific mode of supported service for a given service level. FCC Order. at ¶ 81 & n.240. The 70% threshold applies at least in the case of speed of fixed broadband, id. at ¶ 81, and data allowance for mobile broadband, id. at ¶ 94 & n.274, mobile voice minutes, id. at ¶ 100, and mobile device Wi-Fi capability. Id. at ¶ 376.

13. What will the likely impact be of any changes in minimum communications needs as defined by California LifeLine on the Program's support and funding?

Answer:

As stated in response to Question 12 above, the Commission should not alter minimum communications needs at this time. TracFone is concerned about the economic viability of meeting the federal minimum service standard for data without a considerable increase in subsidies The need to provide additional funding will be exacerbated if the Commission does not adopt the FCC discount transfer freezes, which allow carriers to recoup the cost of increasingly sophisticated devices, as discussed above in Policy Themes 2 and 3.

14. What are "bundled plans" in the FCC's context? Does this mean, simply: a rate plan that includes both voice telephony service and BIAS, or could it include a plan that shares one bucket (for example, a plan that offers 500 units where one unit may equal either one voice minute or one MB)? If it is a rate plan based on units, what benchmarks should the Commission use to make such a plan qualify for California LifeLine support?

Answer:

The only valid form of bundle contemplated by the FCC is one that includes both voice and broadband internet, one of which must meet its respective minimum service standard to receive the full federal subsidy.[9] The possibility of units-based bundles, also known as "'substitution' or 'decremented' bundled offerings," was recently rejected by the Wireline Competition Bureau.[10] TracFone believes the question is therefore moot.

15. Does the FCC's Order require California LifeLine providers to review all of their plans with the Commission to designate whether the plan is for a participant using telephone service or broadband internet access service, and if so, when should such a review be done? Since support for voice telephony services phases out under the federal Lifeline program, is it necessary for California LifeLine to distinguish between service offerings meeting the federal Lifeline program's minimum service standards, and to adjust support? If yes, when and how should California LifeLine implement these distinctions?

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[9] FCC Order at ¶ 123; § 54.403(a)(2)(iv). Note, however, that once the phase-out of voice support is complete, only the broadband component will be eligible for support.

[10] *Wireline Competition Bureau Provides Guidance Regarding Designation as a Lifeline Broadband Provider and Lifeline Broadband Minimum Service Standards*, WC Docket Nos. 11-42, 09-197, Public Notice, DA 16-1118, 6-7 (rel. Sept. 30, 2016).

Answer:

TracFone believes at this time that the FCC Order does not require the Commission to designate California LifeLine wireless service as voice. Moreover, it is doubtful that the Commission would have authority to designate broadband services under California law.[11]

More importantly, the Commission should focus on the key policies for balancing LifeLine resources and the interests of LifeLine customers. Commission designation of California LifeLine service as either voice or broadband would not facilitate state-federal consistency, which is essential to ensuring the carriers can combine state and federal subsidies to provide the best possible plans and devices for California LifeLine customers. California-specific designation would also add to the administrative complexity of the program without any benefit to customers or carriers. As a practical matter, the Commission does not need to perform such designation because carriers distinguish the types of service they provide in the rate comparison charts submitted to the Commission.

16. *The Commission tentatively concludes that California LifeLine can maintain its renewal process until the launch of the National Verifier in California. Is it legally permissible for the California LifeLine to allow the Universal Service Administrative Company (USAC) to conduct California Lifeline renewals, as well as federal Lifeline renewals, in the meantime? Should the Commission continue to conduct the California LifeLine and/or federal Lifeline renewal process or defer to USAC to conduct the renewals for the federal program until the launch of the National Verifier in California?*

Answer:

TracFone believes it is in the best interest of LifeLine customers and the program if carriers retain the right to perform their own renewals consistent with current practice. Although USAC is capable of performing renewals as a general matter, and does so for those providers who opt to have USAC perform that function, carriers are uniquely motivated to retain their current customers by assisting customers with demonstrating their eligibility for renewal. Customers benefit as much as carriers do because their LifeLine benefits are uninterrupted.

Preserving the current ability of carriers to renew is supported by the interest in state-federal consistency for enrollment and eligibility. Switching to USAC renewals would increase

[11] Pub. Util. Code § 710.

the technical complexity of adapting California LifeLine to ongoing federal modernization efforts. In addition to technical complexity, the FCC Order modified federal program-based eligibility by reducing the number of qualifying programs. Therefore, unless and until the Commission modifies California LifeLine eligibility criteria to conform to the FCC criteria, the National Verifier would have to be capable of making an eligibility determination based on California criteria. Even if USAC were willing to do so, TracFone's experience with NLAD suggests that there would be implementation challenges that could interupt service for LifeLine customers and increase administrative costs for the program. The superior approach is to maintain the current ability of carriers to engage in renewals.

17. *If California LifeLine mirrored the federal Lifeline program's renewal process, describe the needed changes.*

__Answer__:

At this time, TracFone does not have any comments regarding the matching of the California and federal renewal processes but reserves the right to address the issue in its reply comments.

18. *The federal Lifeline program is still developing details regarding who may be impacted by the federal Lifeline program's revised eligibility criteria. What potential changes may be warranted to California LifeLine eligibility criteria during the renewal process beginning in 2017?*

__Answer__:

The Commission should not implement any changes to California eligibility criteria except to conform them to the federal criteria or to grandfather current LifeLine wireless subscribers until their next renewal.

As explained in the Policy Themes, inconsistent eligibility criteria will reduce the number of California LifeLine subscribers who receive federal support. The lack of federal support will make it difficult, if not unworkable, for carriers to offer anything but basic voice under the California program. As a matter of economic necessity, the benefits currently provided by many California LifeLine wireless plans are nonviable without the federal subsidy.

Fortunately, the impact of the revised federal criteria may be limited. As the Commission reported to the FCC, California's top five programs for establishing eligibility are not state-specific. The elimination of several federal programs from eligibility determination should likewise have a minimal impact, as only 2.7% of Lifeline consumers enrolled though the eliminated programs.[12] Many of those consumers may qualify under a different federal program or through income-based eligibility.

19. *Should the California LifeLine Program maintain or change how and why participants are removed from the program?*

Answer:

The California LifeLine Administrator (or the national verifier once operational) should determine that an applicant is (i) program-based eligible and (ii) no one else in the household receives LifeLine service *before* notifying the carrier that the applicant is LifeLine-eligible.[13] Many wireless ETCs ship phones to applicants with a good faith expectation that the applicant is eligible and will receive service from the ETC. Unfortunately, many LifeLine customers are removed from the program after they pass an initial eligibility check.

Performing full determinations would reduce waste associated with unused handsets. These costs are significant and, if avoided, could otherwise support better plans and device offerings for bona fide LifeLine customers.

20. *Should the California LifeLine Program educate consumers about changes in federal Lifeline? If so, how? What is the responsibility of the federal Lifeline program to educate consumers about federal program rules and changes? Should California's ratepayers bear the cost of this consumer education? What other issues should the Commission address regarding California LifeLine in light of the FCC's Order changing the federal LifeLine program?*

Answer:

The Commission should be mindful of the extent to which California LifeLine service and customers will be impacted by the changes in the federal program. If California conforms its

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[12] FCC Order at ¶ 190.

[13] For example, an applicant who would normally qualify for LifeLine through Medicaid might be ineligible if another individual in his household already receives LifeLine service. The California LifeLine Administrator, however, might not inform a carrier of the ineligibility until after the carrier has sent the applicant a smartphone.

port freeze policies, eligibility criteria, and enrollment processes to the federal program, and if current customers are grandfathered, then the vast majority of LifeLine customers should be unaffected. Of those customers who are affected, most will not experience any disruption because they will likely qualify for federal Lifeline under one of the five eligibility-determining programs.

On the other hand, if the Commission adopts its own eligibility criteria and port freeze policies, then significantly more Californians may be impacted in ways TracFone cannot currently predict. The cost and burden of educating LifeLine customers will depend on how many are impacted by state and federal changes. These costs will be passed on to others which raises potentially nettlesome questions of equity and efficiency that will need to be separately addressed.

Instead, an appropriate way to respect the interests in state-federal consistency and customer education would be to provide one-time education to only those customers who will need to be grandfathered until they qualify under federal eligibility rules. This would minimize the cost and administrative burden on the program and carriers.

D. TracFone Comments on 60-Day Discount Transfer Freeze as Listed in ACR Section 4.2

1. *Should a 60-day discount transfer freeze for federal Lifeline discounted voice telephony services be adopted by the Commission for its current administration of the federal Lifeline program in California to conform to USAC's current administrative practice, and the federal Lifeline program's pending codification of the federal Lifeline discount transfer freezes? Explain why.*

Answer:

For purely voice-only plans, the 60-day discount transfer freeze is appropriate. For any broadband plan, the 12-month discount transfer freeze is critical. Please see the Policy Themes and the response to Section B, Question 13.

2. *If the Commission adopted a 60-day discount transfer freeze for federal Lifeline discounted voice telephony services offered in California, when should it be implemented in California? Should California institute this policy prior to OMB approval of the federal Lifeline program's discount transfer freezes to conform to USAC's practice? Why or why not?*

Answer:

TracFone encourages the Commission to adopt a 60-day discount transfer freeze for voice-only plans consistent with the FCC rules. The adopted policy should apply the port freeze during the enrollment period while service is being initiated and in no circumstances should it be later than when approval is granted. TracFone recommends the Commission adopt the federal approach to ensure that state and federal freeze dates are in alignment and provide a consistent customer lifecycle experience.

3. *Should the Commission also implement a 60-day discount transfer freeze for California LifeLine discounted telephone services? Explain why.*

Answer:

Yes. Without doing so, program administration will be needlessly difficult and unlimited voice and text plans would be jeopardized if the availability of either state or federal subsidies was affected. Please refer to the policy themes discussed above and TracFone's responses to Section C, Questions 1 and 2.

4. *What are the implications for consumers, competition, and program administration of a 60-day discount transfer freeze for California LifeLine discounted telephone services?*

Answer:

There are substantial benefits and few, if any, disadvantages to a California LifeLine discount transfer freeze policy that parallels the federal program. Customers will still have the ability to leave their current provider, subject to a reasonable limitation that will have negligible impact on bona fide subscribers. Competition between wireless carriers to attract subscribers through better devices and plans will be enhanced, because carriers will have additional resources but customers will be able to switch carriers after a brief period. The Commission will benefit from reduced administrative complexity. Please refer to the policy themes discussed above and TracFone's responses to Section C, Questions 1 and 2.

5. *Would a 60-day discount transfer freeze for California LifeLine discounted telephone services deter fraud, waste, and abuse? Provide specific examples and data to justify your rationale.*

Answer:

As TracFone has urged throughout its comments, a 60-day discount transfer freeze for voice-only plans and a 12-month freeze for plans with broadband would help prevent illicit consumer behavior and waste, fraud, and abuse associated with devices never activated on the network of the carrier that provided it.

6. *Would a 60-day discount transfer freeze for California LifeLine discounted telephone services promote higher investment in high quality California LifeLine services and create benefits to consumers or program administration? Provide specific examples and data to support your contention.*

Answer:

The efficacy of the discount transfer freeze should not be doubted. It operates by ensuring carriers a period in which they have a strong likelihood of recouping the cost of their investments.

7. *Most California LifeLine wireless telephone service providers already offer unlimited minutes of voice, which decreases the incentive for California LifeLine participants to switch California LifeLine providers to get more minutes of voice. Rate plans differ in whether they include BIAS and/or text and how much of each they include, and whether they offer a free handset and what type of handset they offer. Would California LifeLine participants have the same incentive, i.e., to improve services received and to switch California LifeLine providers as exists in the federal Lifeline program? Would California LifeLine participants have other incentives to switch California LifeLine providers, e.g., get a higher BIAS data allocation, more text, or better handset? Why?*

Answer:

The discount transfer freeze is absolutely essential to the further improvement of devices and plans. Handsets are among the most significant motivation for customers to transfer out. Carriers compete based on the quality of their device offerings. However, the cost of devices sent to consumers but never used to receive LifeLine service imposes very real limits on the resources carriers can devote to improving their device offerings.

Without the discount transfer freeze, the Commission should anticipate a plateau in the pace of wireless device and plan improvement. Achieving the same result would most likely require increases in the California LifeLine subsidy. Smartphone devices are expensive, and the Commission should help wireless carriers minimize their losses. The savings will inure to the benefit of subscribers.

As wireless carriers recover more of their costs and consequently improve their offerings, they will offer increasingly attractive devices and plans to tempt away customers. The discount transfer freeze thus results in a virtuous cycle in which the discount transfer freeze provides carriers with additional resources to improve their offerings and attract customers, which fosters further innovation and competition.

8. *What would the likely program and administrative costs and burdens be of a 60-day discount benefit transfer freeze for California LifeLine discounted telephone services?*

Answer:

The most significant effect would be the minimization of transfer-outs. The appropriate inquiry, however, is the extent of the *relative* costs and burdens of adopting the federal 60-day discount transfer freeze for voice service when compared to alternative courses of action. As explained above in the Policy Themes, the adoption of the federal transfer freeze policy has many benefits.

9. *Should the support amounts from the federal government and the state work in tandem regarding the discount transfer freeze, or is there administrative or program justifications for having different discount transfer freeze durations or policies? If so, describe.*

Answer:

There are no benefits to employing different discount transfer freeze policies at the state level. To the extent any potential benefits might result, they would be completely dominated by the increased cost and complexity of inconsistent state and federal policies.

As explained in the Policy Themes, the Commission is the custodian of a program that serves resource-poor communities and should ensure their service is not interrupted. It should therefore be mindful of the possibility that LifeLine customers might find inconsistent state and federal policies very confusing. A LifeLine subscriber has no reason to know—and no reason to remember if educated—that an attempt to switch carriers under inconsistent policies might result in the loss of the federal subsidy and require the shortfall to be paid out of the customer's own pocket.

The potential downside of customer confusion is not one that should be remedied through consumer education. The simpler and most effective solution is to conform the California LifeLine discount transfer freeze policies to the federal program.

10. *If California implemented a 60-day discount transfer freeze for both federal and California LifeLine supported telephone services, what exceptions should apply to the discount transfer freeze?*

Answer:

To avoid unnecessary complexity, the Commission should adopt the same exceptions as the federal program. TracFone points out, however, that the 60-day discount transfer freeze for voice service will cease to be available under the federal program after 2021. At that point, the federal Lifeline subsidy will depend on whether a carrier provides BIAS consistent with the broadband minimum service standards.

11. *Should the Commission adopt the same exceptions as the federal Lifeline program for California LifeLine if California adopts a 60-day discount transfer freeze for California LifeLine discounted telephone services?*

Answer:

Yes. Different policy exceptions could be as costly and confusing as if the policies themselves were different.

12. *Should the Commission add a fifth exception: if the California LifeLine provider is found in violation of California LifeLine rules during the discount transfer freeze period, and the violation affects the California LifeLine participant, the discount transfer freeze would not apply? Why?*

Answer:

Yes. Adopting this exception would support state-federal consistency by permitting a consumer subject to this exception to transfer both their California and federal benefit to another carrier. The alternative could increase administrative complexity and consumer confusion.

13. *Should the Commission add an exception that California LifeLine participants may cancel their California LifeLine services within 14 days of California LifeLine activation if the California LifeLine participants have problems with the handset or service, and communicate the problem(s) to the California LifeLine provider in accordance with the*

Commission's Decision 14-01-036? If so, why? Would adding this type of exception be out of compliance with the federal Lifeline program's discount transfer freeze rules? How so?

Answer:

Cellular networks and mobile voice and broadband technology have improved significantly. LifeLine consumers experiencing poor service quality will invoke the 14-day exception much less frequently than consumers who resell unactivated carrier-provided handsets and others engaged in illicit behavior.

The prevalence of abuse makes this exception potentially costly. As TracFone has explained in the Policy Themes, California LifeLine providers are obliged by market forces to provide smart devices that are significantly more expensive than handsets for voice-only service. The Commission should carefully consider these costs when crafting any exceptions.

To the extent the Commission chooses to implement a 14-day exception, TracFone believes several safeguards are necessary. First, the exception period should be shorter than 14 days. Consumers should be able to quickly determine whether the service is adequate for their needs. Second, carriers should have an opportunity to resolve the service complaint by, for example, replacing the device with a different model, or, in the case of wireless resellers, serving the consumers though another network. Third, and most importantly, consumers should be required to return the device associated with the service they wish to discontinue before they are allowed to transfer to a different carrier.

TracFone notes, however, that these measures likely do not do enough to limit losses. Devices returned by consumers would no longer be new and would still constitute a loss.

14. *Would the exception of the "current provider ceases operation or otherwise fails to provide service" cover situations where a participant is unable to effectively use the discounted service at the participant's home, work, school or other important locations and constitute an effective failure to provide service? What would constitute "failure to provide service"? What would constitute ceasing operations?*

Answer:

As TracFone discussed in its response to the preceding question, exceptions that permit consumers to avoid the discount transfer freeze based on alleged service quality issues will increase costs if the exception is abused.

To the extent the Commission implements this exception at all, it should impose safeguards to ensure that service is genuinely unusable, not merely inconsistent with consumer expectations. For combined voice and data plans, the exception should be substantially constrained to prevent losses associated with smartphones and similar devices. However, the Commission should apply the exception more liberally for cheaper handsets on voice-only plans. Additionally, wireless carriers should have an opportunity to resolve the service complaint by, for example, replacing the device with the same model. Consumers should be required to return the device before they transfer to a different carrier.

15. *Should a 60-day discount transfer freeze for California LifeLine discounted telephone services apply only to wireless telephone services and/or to wireline telephone services? What is the rationale for your choice? Would limiting the 60-day discount transfer freeze to certain types of providers be out of compliance with the federal Lifeline program's discount transfer freeze rules?*

Answer:

There is no justification for differential treatment of wireless and wireline services. The FCC Order distinguishes only between voice and broadband internet, not wireline and wireless. Applying separate discount transfer freeze rules for wireline and wireless service would introduce a new dimension to the administrative complexity of the LifeLine program, which would increase costs and likely confuse consumers.

16. *If a 60-day discount transfer freeze were implemented in California for federal Lifeline and/or California LifeLine discounted telephone services, how should federal Lifeline and/or California LifeLine providers inform potential and/or existing California LifeLine participants about the discount transfer freeze? Should federal Lifeline and/or California LifeLine providers be required to inform potential and/or existing California LifeLine participants orally about the 60-day discount benefit transfer freeze at the time when a consumer may be trying to sign-up for the provider's retail service, unless the exceptions above apply? Should providers be required to distribute written information about the 60-day discount transfer freeze prepared by the Commission's Communications Division and deliver that information to the potential and/or existing California LifeLine participants prior to signing-up for the provider's retail service?*

Answer:

The Commission should strive to minimize the amount and complexity of information it provides to consumers regarding the discount transfer freeze. As an arcane regulatory matter, it would likely confuse most subscribers. When signing up for service, however, LifeLine participants should be orally informed about the applicable discount transfer freeze policies. Doing so might dissuade waste or illicit use.

TracFone otherwise has no position regarding the details of how Communications Division would communicate these changes to consumers.

17. *If the Commission adopted a 60-day discount benefit transfer freeze for California LifeLine discounted telephone services, which date and activity(ies) would trigger the start of the discount transfer freeze? Should the trigger for the start of the 60-day discount transfer freeze be the date in which the California LifeLine discounts started as determined by the California LifeLine Administrator? Should it be the application date10 when a consumer expresses interest to be on California LifeLine? Should it be the decision date11 in which the California LifeLine Administrator notifies the consumer and/or the California LifeLine provider of its eligibility decision?*

Answer:

TracFone recommends that the Commission adopt the approach used by the federal program. It does not specifically oppose the imposition of a discount transfer freeze either before or after the establishment of service.

18. *If the Commission adopted a 60-day discount transfer freeze for California LifeLine discounted telephone services upon which date and activit(ies) would trigger the end of the discount transfer freeze?*

Answer:

In general, TracFone recommends that the Commission adopt the approach used by the federal program. If, however, the Commission adopts a discount transfer freeze that takes effect *prior* to the establishment of service, then the freeze should last for 60 days after the approval of Lifeline benefits. If the Commission adopts a freeze that takes effect *after* the establishment of service, then the freeze should last for 60 days after establishment of service.

19. *If the Commission adopted triggers for the start and end dates for the discount transfer freezes that did not match with the federal Lifeline program, would California be out of compliance with the federal Lifeline program's discount transfer freeze rules?*

Answer:

While TracFone declines to opine on the legality of inconsistent state and federal discount transfer freeze policies, it notes that the attainment of the FCC's objectives is contingent on the availability of both the California and federal subsidies. The Commission should therefore conform to the FCC approach.

If the Commission implements a different transfer freeze for broadband plans, it undermines the FCC's goal of ensuring all Lifeline subscribers receive at least 2 GB of data by the end of 2018. Even with the 12-month discount transfer freeze, wireless carriers will face significant challenges in profitably meeting the FCC's minimum service standards for broadband. As explained in the Policy Themes, the 12-month freeze for broadband devices is necessary for wireless carriers to recoup the cost of providing the advanced devices demanded by consumers.

20. *With the FCC's adopted requirement that "a provider shall not seek or receive reimbursement through the Lifeline program for service provided to a subscriber who has used the Lifeline benefit to enroll in a qualifying Lifeline-supported voice telephony service offering with another Lifeline provider within the previous 60 days," would consumers actually be able to transfer their federal Lifeline benefits? Would consumers actually have to be without federal Lifeline discounted services for at least 60 days to be able to transfer their discounts absent triggering one of the allowed exceptions?*

Answer:

No, consumers would not be forced to forego federal Lifeline service during the 60-day period. If an enrolled consumer attempted to switch carriers during the discount transfer freeze, the verifying entity would block the request as an attempt to initiate a second line for the same household.

TracFone does not believe that the attempt to switch carriers would terminate the consumer's Lifeline service. Under a plan with a limited monthly allotment of minutes, for example, the minutes would have already been loaded onto the consumer's handset for that month, which the consumer could continue to use.

21. *Should California LifeLine adopt any additional restrictions? For example, should California adopt an enrollment request freeze, during which a consumer may not submit a request to participate in the California LifeLine?*

<u>Answer</u>:

Yes. For reasons explained previously, LifeLine consumers should not be able to initiate a port transfer while their enrollment is pending.

E. TracFone Comments on Broadband Internet Access Service Considerations Listed in ACR Section 4.3

1. *Whether the Commission should impose a similar 12-month discount transfer freeze on BIAS that may be supported by California LifeLine, and what exceptions should be available to California LifeLine participants. In light of the 12-month discount transfer freeze for BIAS, should the Commission adopt a 12-month discount transfer freeze for CPUC-supported BIAS when offered as part of a bundle with California LifeLine discounted telephone services?*

<u>Answer</u>:

It is unclear what the Commission means by "BIAS that may be supported by California LifeLine." At present, all California plans that offer broadband are economically viable only when supported by both the state and federal subsidies.

TracFone cautions the Commission against conditioning the California subsidy on additional minimum service standards relating to BIAS, which could create an unworkable degree of administrative complexity, operational difficulty, and legal uncertainty. State-federal consistency is paramount. Any transfer freeze imposed by the Commission should mirror FCC policy.

2. *If the Commission adopts a 60-day discount transfer freeze for California LifeLine discounted telephone services, should it adopt a parallel 60-day discount transfer freeze for California LifeLine BIAS if both are offered in a bundle? What would be the administrative implications if California LifeLine participants who had telephone service/BIAS bundles faced a 60-day discount transfer freeze for California LifeLine telephone service/BIAS bundles, but a 12-month discount transfer freeze for federal supported BIAS?*

<u>Answer</u>:

California LifeLine consumers will not benefit if the Commission imposes a 60-day discount transfer freeze for broadband. The 12-month freeze for broadband imposed by the FCC is essential if the Commission intends for LifeLine broadband to remain economically viable. As

TracFone has explained, wireless carriers must be able to recoup the cost of the increasingly expensive devices demanded by consumers.

TracFone very strongly opposes the Commission imposing a 60-day transfer freeze on any part of any plan that provides broadband service. A 60-day discount transfer freeze for broadband would not permit carriers to recover their costs, would conflict with the FCC rule, confuse consumers, succeed only with a significant increase in California subsidy, and raise difficult legal questions regarding consistency between a California broadband requirement and the FCC Order.

3. *If California LifeLine is offered in combination with federal Lifeline, will ETCs in California that offer BIAS through the federal program trigger a 12-month discount transfer freeze for federal Lifeline? Should the Commission require ETCs in California to offer an unbundled service offering, one which includes voice telephony services that would only be subject to a 60-day discount transfer freeze? Would a 12-month discount transfer freeze for bundles that include BIAS supported through federal Lifeline also trigger a 12-month discount transfer freeze for the entire bundle including all California LifeLine services such as telephone services?*

Answer:

Yes, all California plans that offer BIAS consistent with the federal program would be subject to the 12-month discount transfer freeze policy. As a practical matter, virtually all California plans that include data would fall under the FCC rule.

Although the Commission possibly could require carriers to offer an unbundled voice-only plan, it could not provide unlimited minutes without the addition of the federal subsidy.

Yes, a 12-month discount transfer freeze for bundles that include BIAS supported through federal Lifeline would also trigger a 12-month discount transfer freeze for the entire bundle, including all California LifeLine services such as voice telephony. Inconsistent transfer freeze policies would raise many questions: If California voice and broadband services were subject to only the 60-day rule, could consumers switch California-supported voice and data providers but retain the federally-supported data carrier on the same device? Could consumers receive data service from two different carriers on the same device? Or would consumers have to use two separate devices to retain the federal benefit? Such an approach would introduce nightmarish complexity to an already complicated program and confuse consumers.

In any case, inconsistent discount transfer freezes at the state level would likely conflict with the accomplishment of FCC goals and present complicated legal issues.

4. *How should a 12-month discount transfer freeze work with the activation/connection fee that allows a carrier serving eligible households that fee no more than two times per year between December 24, 2015 and December 24, 2016, and any future activation/ connection fee. Should carriers be eligible for an activation/connection fee if an eligible household establishes service consistent with the 12-month discount transfer freeze? Should the service activation/connection discount be available only if the eligible household switches to a different carrier after 12 months? Is any activation/connection discount appropriate for renewals that do not involve a switch of carrier? Please recommend what rules should apply to the interaction of the service activation/connection discount and a 12-month transfer freeze.*

Answer:

The California LifeLine program should not pay a second activation fee within the 12-month discount transfer freeze unless the consumer falls within an exception. The fee would be available if the consumer had completed the 12-month waiting period.

5. *Should California LifeLine require some BIAS to receive full California LifeLine support, and if so at what speeds and usage limits? Should BIAS remain optional for California LifeLine since it will be mandatory for federal Lifeline support by the end of 2016? Please discuss the legal authority of the Commission to order the inclusion of BIAS, and the administrative and policy issues raised by any proposal to mandate the inclusion of BIAS for California LifeLine support, whether full or partial.*

Answer:

Given that the phase-in of the federal broadband requirement will occur rapidly enough to raise doubts about the ability of carriers to satisfy it, any California requirement to provide broadband must be accompanied by significant subsidy increases. Without additional subsidies, carriers would struggle to meet both state and federal broadband minimum service standards.

Respectfully submitted,

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